UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1975
5 November 2001

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Seventy-third session

SUMMARY RECORD OF THE 1975th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 26 October 2001, at 3 p.m.

Chairperson: Mr. BHAGWATI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of Azerbaijan (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.01-45583 (E) 311001 051101

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 5) (continued)

Second periodic report of Azerbaijan (continued) (CCPR/C/AZE/99/2)

1. At the invitation of the Chairperson, the members of the delegation of Azerbaijan resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation to respond to the questions put by members of the Committee.

3. Mr. KHALAFOV (Azerbaijan) said his delegation had not anticipated such a large number of questions in addition to those contained on the list of issues, but it would do the best it could to reply to all of them.

4. Mr. MAMMADOV (Azerbaijan), in reply to the question as to whether citizens could bring complaints directly to the Constitutional Court, said the Constitution did not specifically provide for direct access by citizens, although it did not exclude it. However, many lawyers had for some time been pressing for constitutional reform in that area, and a supplement to the Constitution had recently been drafted and would be considered by parliament in the near future. The Courts and Judges Act, adopted in 1997, and also the Code of the Criminal Procedure and the Civil Code, all provided for mechanisms for addressing the Constitutional Court via the ordinary courts by means of a petition to the plenum of the Supreme Court, but those mechanisms were complicated and provided no guarantee of success. A new Constitutional Court Bill had been drafted, including new provisions relating to procedures for the consideration of complaints by citizens.

5. Concerning the methods used for selecting candidates for the judiciary, a Council had been set up which included representatives of both the judicial and the executive branches and various legal experts, including international experts appointed by the World Bank. Candidates were required to first sit a written examination and then attend an interview. The examination procedure was open to observers from the council, as well as to observers from NGOs and international bodies such as the American Bar Association.

6. On the question of guaranteeing the independence of lawyers, a new Act on the subject had been adopted, but unfortunately it had not provided adequate mechanisms for the transition from the old system to the new and thus had been slow to take effect; problems had arisen as a result. Representatives from Azerbaijan had recently attended a meeting of legal experts of the Council of Europe at which amendments to the law had been drafted, with a view to bringing it into line with the commitments Azerbaijan had entered into on joining the Council and, specifically, to solving the problems of the transitional period. The amended law was shortly to be submitted to parliament for approval. The Council of Europe was to provide assistance with legal training and with the development of a code of conduct. On the question of membership of bar associations, he said there were numerous licensed law firms operating in the country, both Azerbaijani and foreign.

7. A number of questions had been raised concerning the procedures governing pre-trial detention. Under the new Code of Criminal Procedure, detention was seen as deprivation of liberty for a limited period only and could not be extended beyond 48 hours without a court decision. Reference had been made to paragraphs in the report which stated that suspects not charged within 10 days must be released, but that provision had now been superseded; under the new Code pre-trial detention for such lengthy periods was not permitted.

8. Administrative detention for civil offences must not exceed 3 hours, but could be extended to 24 hours if linked to specific offences such as violations of the regulations governing the crossing of State borders. Decisions to order detention were taken by courts of first instance, following an application via the Procurator's Office, and those concerned were entitled to be represented by a lawyer.

9. Mr. HUSEYNOV (Azerbaijan) said that the activities of NGOs were governed by a law adopted the previous year, which reflected the Government's position that such organizations were an indispensable element of a democratic system. The Azerbaijani authorities were in favour of cooperation and dialogue with NGOs, particularly in the field of human rights protection. The organizations assisted in the formulation of legislation and also, under an agreement with the Ministry of Justice, in human rights monitoring in penal institutions.

10. Under article 71 of the Constitution, the declaration of a state of emergency was subject to the international obligations assumed by Azerbaijan in relation to human rights guarantees. However, under a state of emergency, the confidentiality of postal and telecommunication services could be suspended for security reasons. In response to the question concerning the state of emergency in Baku, he said that the Secretary-General of the United Nations had already been informed of the reasons for that situation, in accordance with article 4 (3) of the Covenant. A bill concerning the declaration of states of emergency, which took into account the Committee's general comments, notably General Comment No. 29, was in course of preparation.

11. Mr. KHALAFOV (Azerbaijan), in response to questions raised by Mr. Scheinin and Ms. Chanet concerning Azerbaijan's reservation under the Second Optional Protocol, said that the original reservation had been sent back to parliament for review in 1999. A revised version had been submitted to the Secretary-General of the United Nations in July 2000; it took full account of the comments made. He would make a copy of the text of the reservation available to the Committee. In reply to a further question, he said that the death penalty had now been abolished and replaced by life imprisonment. Nineteen persons had died while awaiting application of the death penalty.

12. In response to the question concerning the right to self-determination in the region of Nagorny Karabakh, he said that one of the most severe problems confronting Azerbaijan was the settlement of its conflict with Armenia, which for some 10 years had been committing acts of aggression against it and now occupied 20 per cent of its territory. That aggression had led to a 1 million strong refugee flow, giving rise to immense social and economic problems for the country. Under the Constitution, self-determination for Nagorny Karabakh was interpreted as autonomy, or self-government, within the Azerbaijani Republic, a status which was fully in conformity with the settlement reached on the issue under the auspices of OSCE.

13. On the question raised by Mr. Scheinin concerning trafficking in women and children, he said that although he recognized that there were some gaps in the legislation governing the matter, such trafficking had never in practice been a problem in Azerbaijan. Those gaps were likely to be filled in the near future as part of the general programme of legislative reform.

14. Mr. MAMMADOV (Azerbaijan), responding to a question from Mr. Klein on military courts, said that those courts acted as courts of first instance. Appeals would be heard by the appellate court, and there was also a specialized division within the Supreme Court which heard military cases. Civilians could be brought before such courts only if they were charged with a criminal offence committed as part of a group including military personnel.

15. As to the status of decisions by the Supreme Court, he explained that whereas in Soviet times such decisions had been considered as binding, the judicial system had since been changed, and they were now regarded merely as recommendations. Rulings by the Constitutional Court were now binding on all other courts, including the Supreme Court. Lastly, concerning the independence of the judiciary, under the Courts and Judges Act any contacts between judges not directly related to their conduct of civil or criminal cases were now prohibited.

16. Mr. Klein had also asked for an explanation of article 24 (2) of the Constitution, which ran in translation "Rights and freedoms also include the liabilities and responsibilities of each individual to society and other individuals." He believed that that provision enunciated a general principle of human rights and freedoms which more or less recapitulated article 29 of the Universal Declaration. To the question whether the provision could be used to limit human rights, he would say that although it was in principle possible, to the extent that it had direct juridical force like any provision of the Constitution, it was unlikely in practical terms that it would be used to limit any right because it was more of a philosophical nature than a legislative one and very generally expressed. A process was currently under way aiming to supplement the Constitution with a view to fulfilling the country's obligations to the Council of Europe. The section of the Constitution on human rights would ultimately incorporate special provisions on limitations, in accordance with the European Convention on Human Rights.

17. Ms. Chanet and Mr. Ando had drawn attention to the part of the report concerning the legal status of aliens. Any restrictions that might be placed on aliens for purposes of reciprocity which ran counter to other provisions putting aliens and stateless persons on an equal footing with citizens of Azerbaijan would be relegated to a secondary level. The provision concerning reciprocity would receive further study in the light of the primacy of international law in that respect.

18. The question whether the population were properly informed of their rights was particularly important in the case of a country in transition like Azerbaijan. In the 10 years since its independence, the country had changed a great deal. Insofar as democracy and respect for human rights were concerned, almost everything had changed. Azerbaijan now had 10 political parties, 100 or so NGOs and dozens of human rights organizations. There were still some grounds for criticism, of course, but those bodies existed within the legal structure of the Azerbaijani State and the system could be said to be working rather well thanks to those mechanisms and to the cooperation extended by many international organizations. The

population was quite well informed of its rights and of the country's international obligations with regard to the protection of fundamental human rights and freedoms. There were numerous mass media in Azerbaijan which kept a close eye on those matters and saw that information was conveyed to the population.

19. Mr. KHALAFOV (Azerbaijan) said that the delegation would give answers in writing to the questions on the first part of the list of issues which had not yet been fully dealt with. He would try to answer the remaining oral questions as briefly as possible.

20. In response to the question asked by Sir Nigel Rodley about remand centres, he said that in addition to the remand centres which were now under the supervision of the Ministry of Justice, there were other centres for which the Ministry of Internal Security was responsible. On the question of monitoring and access, he said that NGOs now had access to the centres. A process of reform was under way and the Government would bear in mind the Committee's opinion and advice in that connection.

21. In response to the question about displaced persons from Nagorny Karabakh, he said that the status of refugees and involuntarily displaced persons was governed by legislation. There was also a special Decree of the President on the provision of material assistance to such persons and measures were being taken to foster their reintegration into society. It was true that many of them were still living in hostels or even camps, but under the Decree additional resources had been set aside to help such people.

22. As to the machinery for complying with international treaties, he said that, normally, before a bill was considered in parliament it went through a process of examination by various State bodies. The various comments were taken into account and the resulting draft discussed with those international organizations to which Azerbaijan was a party.

23. In response to Mr. Amor's question about the nationality of children, he said that if one parent was a citizen of Azerbaijan, the child would be granted Azerbaijani nationality.

24. On the question of forced labour for detainees, he observed that the legislation on the matter was evolving. The Chairperson had noted that the term "corrective labour" used in the legislation seemed to hark back to the communist past. A new Criminal Code had been adopted and the institutions in question were now known as correctional centres rather than labour colonies.

25. With regard to the system of residence permits, he said that the Constitutional Court had conducted an investigation into the relevant legislation and under the new interpretation there were no legal obstacles to freedom of movement. On the question of procedures in states of emergency, he said that a special proclamation must be issued and the population duly informed.

26. An interesting question had been asked about international customary law. Azerbaijan was undergoing a process of development in that regard. The provisions of its new Constitution and legislation gave recognition to those norms, which would occupy an important place in any further improvement of the legislative system.

27. Mr. Henkin had asked who had prepared the report. The answer was that the document was the work of a special working group consisting of representatives of various governmental bodies. The draft had been further developed in consultation with NGOs and independent experts. The completed document had been approved by the President and then submitted to the United Nations for consideration by the Human Rights Committee.

28. Several questions had been asked about the penalties for officials who violated the law. It was true that certain violations had occurred in the course of campaigns related to the recent parliamentary elections and not all of them had been properly dealt with. In most cases, however, the authorities responsible had been punished and the results of the elections annulled in those constituencies. Control over the executive branch was exercised by parliament on many issues as well as by the judiciary. There were also penalties for officials who did not comply with the procedure for the appointment of judges. Some details had already been provided about the appointment procedure and he noted that, in the course of the last selection process, carried out under the auspices of international organizations and in the presence of observers, no major complaints or violations had been recorded. Some 60 per cent of judges had been appointed for the first time.

29. A question had been asked about corruption, which must be acknowledged to be one of the most serious problems facing Azerbaijani society. Reference had already been made to the Presidential Decree establishing a programme to combat corruption, but that process would take time. The problem of corruption was worldwide and his Government was actively engaged in combating it in cooperation with various international organizations. A corruption bill had already been drafted, and he hoped that it would soon be enacted. After that, the main problem would be to implement its provisions, and the Government looked forward to international cooperation in that regard.

30. Regarding guarantees against the dismissal of judges, he believed that the position had been made clear in the report. The complicated procedure involved constituted an additional guarantee that judges would not be the object of arbitrary action.

31. The Chairperson had asked a question about the dissemination of information relating to the Covenant. He believed that the process of presenting the report was one of the best means of disseminating information, as well as strengthening legislation relating to human rights. The Committee's recommendations would take the process further. Legislation in many areas had already been changed as a result of the Committee's previous recommendations.

32. Regarding complaints against the police, he said that a judicial body existed to investigate such complaints and new legislation had been adopted relating to the police, the Criminal Investigation Department, and the courts and judges. A new Criminal Code was in effect and a new Code of Criminal Procedure.

33. In conclusion he apologized if any of the questions had not been answered specifically, and said that the delegation was ready to provide responses in writing.

34. The CHAIRPERSON thanked the representative of Azerbaijan for his admirable brevity and invited him to take up the second part of the list of issues, starting with question 12.

35. Mr. KHALAFOV (Azerbaijan) said that Azerbaijan was a multi-ethnic and multi-religious State. Some 400 religious groups of various faiths were represented within its borders. The Constitution guaranteed all citizens equal rights in that respect and contained an article specifically prohibiting the dissemination of religious propaganda that belittled the dignity of individuals. The 1992 Freedom to Profess a Religion Act contained provisions for the registration of religious organizations. Such registration required an application which must be decided within 50 days. The decision could be appealed, as set out in the Code of Civil Procedure.

36. With regard to military service, provisions for alternative service were established by the Presidential Decree of 1992. Parliament was currently considering new legislation on alternative service in accordance with the standards established by the Council of Europe. The previous legislation had not been satisfactorily enforced and it was hoped that the proposed new legislation would provide a good solution.

37. Turning to question 13, he said that, in law and in practice, all the rights relating to freedom of opinion and expression were defined in the Constitution, the 1998 Freedom of Information Act and the 1999 Mass Media Act. Under those enactments conditions had been established for the free expression of opinion and the revelation of any information that was not a State secret or not subject to any limitation on the grounds of the source from which it came. The 1998 Act defined those items of information that would constitute a State secret and imposed limitations on information acquired as the result of an investigation into private life or through the exercise of a profession required to observe confidentiality. There were some 500 media organs operating in Azerbaijan: newspapers, periodicals and radio and television stations. Most of the hundreds of newspaper companies belonged to private individuals and social organizations.

38. The procedure for the consideration of citizens' requests for information was regulated by law. The media were entitled to receive information from State bodies and officials, and refusal by an official to supply information could be appealed against to the body in question or through the courts. A Presidential Decree of 20 July 2001 established a council for the press, television, radio and the Internet. The council's basic duty would be to license the activities of the media. Under the Mass Media Act, special measures had been adopted to encourage the development of information structures. Newspapers had been exempted from value-added tax as well as tax on income earned from the sale of information, and the duty on imported newsprint had been abolished.

39. On question 14, relating to the harassment and intimidation of the media, he said that journalists exercising their constitutional right to freedom of expression were required to use that right responsibly. Freedom of expression should be used to the benefit of the values of society as a whole. The Government too was required to act responsibly and not to resort to excessive regulation of the relationship with the media. All the related issues were currently under discussion. There was a huge number of journalists in Azerbaijan, and the media were prospering and freely engaging in their activities. There was some bias in the privately-owned media, and perhaps in the State-owned newspapers and television as well, but he believed that

improvement was under way. There had been some cases in which journalists were held criminally responsible for violations of the law, but the cases involved genuine violations and had been dealt with openly.

40. The issue raised in question 15 regarding procedures for the registration of associations and cases in which such registration had been denied, was very serious and needed a somewhat lengthy reply. His hopes for the consolidation of democracy in Azerbaijani society and for the corresponding development of NGOs were great. In the year 2000, a new Civil Code had been adopted, together with a new Act on non-governmental organizations. In order to be registered, an organization must apply to the Ministry of Justice. The application must be signed by the organization's founders or legal representatives and must contain its statutes and legal address. The requisite State fee must also be paid. The application must be considered within 30 days. If the regulations were found to have been complied with, a certification of State registration must be issued by the Ministry of Justice within the next 10 days. If the application was found to violate the law, in the sense that the documents provided were inadequate or the objectives of the organization as laid out in its statute were prohibited by law, the Ministry must provide written reasons for rejection of the application. Appeal against rejection must be decided within five days.

41. Currently, there were some 1,400 NGOs operating in Azerbaijan in accordance with the law. They were entitled to form a union and to coordinate their activities. The National Forum of Voluntary Organizations included some 200 bodies. Not all the organizations whose initial application was rejected reapplied within the proper time limit, and so were not reconsidered. Among the organizations which were registered, 34 dealt with human rights, 40 were women's organizations, 40 young persons' organizations and 30 entrepreneurs' organizations.

42. Some 30 political parties had applied to register over the reporting period. Some of those whose applications were not approved reapplied after their documentation had been brought into line. Parties which had ultimately been approved included the Vakhtad Party, the Azerbaijani Democrats' Party, the Azerbaijan Social Democratic Party, the Azerbaijan People's Front Party and the Azerbaijan Combatants' Party. Some, however, had not sought to re-register while others had been definitively refused. Grounds for refusing registration for some political parties and voluntary organizations included violations of democratic principles in their establishment or the incompatibility of their statutes, with the law. For example, the reason for the refusal to register the Islamic Party was that its objectives were basically religious and its aim was to alter the secular character of the State as laid down in the Constitution. The reason for refusing to register the Gerat Party was that its constituent articles provided for undemocratic methods of political campaigning, including the seizure of power through the establishment of illegal armed groups. The reason for rejecting the Azerbaijan Twenty-first Century Union of People's Patriots Party was that the leader of the party was a citizen of a foreign State. The reason for which a number of voluntary organizations had been refused registration was that their founders were foreign citizens linked to criminal groups.

43. In reply to question 16, he said that article 49 of the Constitution guaranteed everyone the right to freedom of assembly; subject to the provision of advance notice, everyone had the right of peaceful, unarmed assembly, the right to hold meetings, rallies, demonstrations and street processions, and the right to picket. The 1998 Freedom of Assembly Act obliged the State to

ensure the safety of those participating in demonstrations and meetings. Article 169 of the Criminal Code made organizations responsible for ensuring that meetings were conducted lawfully and under conditions that did not threaten the health and safety of bystanders. In the city of Baku, 23 out of 70 applications to hold meetings or pickets had been granted by the city authorities in 2000 and 4 out of 32 applications had been granted in 2001. All the rejections had concerned the refusal of organizers to accept venues designated by the authorities.

44. In reply to questions 17 and 18, he said that national legislation made provision for the abolition of political parties if they engaged in activities deemed to be unconstitutional. During the reporting period, several parties had been disbanded for reasons including the distribution of propaganda intended to stir up inter-ethnic hatred, the organization of illegal armed groups, and attempting to use armed intervention to alter the secular character of the State. Concerning the alleged obstacles to the registration of candidates for the parliamentary elections held in 2000, he said that the Central Electoral Commission organized special working groups to scrutinize the lists of parliamentary candidates submitted by political parties. If more than 10 per cent of supporters' signatures were found to be false, the corresponding candidates were not registered, although they had the right of appeal. It was a criminal offence to impede the implementation of electoral rights. With regard to those prevented from registering in 2000, he said that most cases had involved false signatures or incorrect completion of documents, and that around 80 per cent of those disqualified had eventually been registered on appeal.

45. Turning to question 19, he said the 1999 census had revealed that 90.6 per cent of the population of almost 8 million were Azerbaijanis. The remaining population comprised 178,000 Lezgin's, 142,000 Russians, 121,000 Armenians, 77,000 Talysh, 51,000 Avar's, 44,000 Turks, 30,000 Tatars, 30,000 Ukrainians, 16,000 Tsakhur's, 15,000 Georgians, 13,000 Kurds, 11,000 Tats, 9,000 Jews, 4,000 Udin, and 9,000 representatives of other minorities. Members of ethnic minorities could be found at all levels of government, including parliamentary standing committees, and especially in local government in areas where the minorities were concentrated. Individuals belonging to ethnic minorities were also to be found in a range of high-level posts, and there was no bar to their participation in either governmental or opposition parties. Azerbaijan had many centres and associations representing minority cultures. In 2000, Azerbaijan had acceded to the Council of Europe Framework Convention on the Protection of National Minorities. Parliament was actively considering the introduction of a law on minorities.

46. In reply to questions 20 and 21, he said that, in addition to establishing the State Committee for Women's Affairs, the Presidential Decree of January 1998 had also assigned the Cabinet of Ministers the task of proposing measures designed to enhance women's participation in political, social, economic and cultural life. Women were increasingly taking on managerial roles at all levels of the administration, from local government to the President's Office, and were particularly well represented in the areas of health, education, welfare, scientific research and the law. Several women had recently been elected to the National Academy of Sciences.

47. There were also several dozen NGOs actively involved in developing legislation concerned with gender equality, maternity and childhood, and women's rights. In the past three years, over 150 seminars, meetings and lectures on gender-related issues had been held, many of

them involving experts from the Council of Europe and other international organizations. In 2000, the President had enacted a decree specifically concerned with raising the status of women in government and in public life. In the same year, the Cabinet of Ministers had adopted a decree establishing a national plan of action on women's issues, which placed particular emphasis on the codification of criminal and judicial provisions and punishments for violence against women. Fourteen per cent of parliamentary deputies were women, as were 14 per cent of all judges, including the presidents of the Supreme Court and the Court of Appeal. There were more than 30 associations concerned with improving women's employment situation and increasing the number of women managers active in the free market economy. Several other organizations were working to protect the interests of the refugees, orphans, disabled persons and families who had suffered because of the war in Nagorny Karabakh.

48. Turning to question 22, he said that the report had been prepared by a working group comprising representatives of several ministries, the State Statistical Committee, the Procurator's Office, and the Constitutional and Supreme Courts, and experts from State bodies and NGOs. Their meetings had been held in public, and representatives of the Ministry of Foreign Affairs had briefed the media at every stage on matters relating to the report's main features and objectives.

49. With regard to question 23, he said that, following a Presidential Decree of October 1999 and an order by the Cabinet of Ministers on September 2000, the Ministry of Justice had inaugurated a training centre for members of the judiciary, prison staff and law enforcement officials. In addition to receiving training on legal and specialized issues, all staff were now required to familiarize themselves with the relevant international human rights instruments, including the Covenant. To help them in their work, in 2001 the Ministry of Justice had published a compilation of all the principal international human rights instruments. Finally, efforts had been made to familiarize all those working on UNHCR technical cooperation projects with the Covenant's provisions, and public awareness of human rights had been raised through the publication, in association with the Office of the United Nations High Commissioner for Human Rights, of international jurists' opinions and a compendium of the most important human rights instruments.

50. Mr. KHALIL asked whether it was true that ownership of printing presses by periodicals and newspapers was forbidden, and how it was that so many religious groups - 400 - existed in Azerbaijan. Could the delegation define a religious group?

51. Mr. SHEARER asked the delegation to provide a breakdown of religious affiliation in the country, and to comment on the provision in article 18 of the Constitution proscribing religions which either "humiliated people's dignity or contradicted the principles of humanism". Could the delegation provide examples of religious groups which had been banned for such reasons? Also, was a new law on conscientious objectors contemplated now that procedures based on the Council of Europe model were being followed? With regard to article 17 of the Covenant, he would like to know if the Criminal Code made punishable homosexual acts between consenting adults in private, and whether public meetings of homosexuals were tolerated. Finally, was information on family planning freely available to women?

52. Sir Nigel RODLEY said he would like to have information on recent cases which had been brought to his attention. First, could the delegation say why Elmer Huseinov, editor-in-chief of Bakinskiy Boulevard, Millatin Sesi, a journalist on the Voice of the People, and Shakhvar Mamedov, director of the Independent Printing Press, had been arrested? Was it true that the three had been denied access to anyone, including lawyers, for a week? Secondly, in view of the fact that the Adalyat party had been denied registration since May, he would like more details about the procedure governing such decisions and the status accorded to a political party when its application was pending. Moreover, was it true that the party's premises had been ransacked and closed down and three of its leading members imprisoned?

53. Mr. ANDO asked the delegation to clarify the September 1999 case involving a police raid on a Baptist service in Baku, which had resulted in the detention of 60 worshippers, a 15-day administrative sentence for the 2 Azerbaijani Christians leading the service, and the deportation of 8 foreigners on charges of spreading illegal religious propaganda. Secondly, he would like the delegation to provide more information on the levels of domestic violence against women and children, and on countermeasures. Thirdly, in connection with the delegation's reply to question 18, he would like more details of the grounds on which those who had appealed had been successful.

54. Mr. HENKIN asked whether it was a crime to criticize the Head of State or other State officials, whether it was a crime to proselytize, what policy the Azerbaijani Government had adopted with regard to non-refoulement, and what limitations applied when a state of national emergency was declared.

55. Mr. KRETZMER said he had some questions relating to the status of women. First, the Committee had received information alleging that women's health was endangered because the absence of contraceptive methods and advice left them with only one option - abortion. To what extent was that true, and what steps were taken to provide family planning advice and ensure that abortions were safe? Secondly, he felt that the delegation had not adequately addressed the issue of domestic violence in its answer to question 21. What was being done to shed more light on the taboo surrounding domestic violence, especially with regard to the submission of complaints and raising awareness of means of redress? Likewise, concerning the general reluctance to bring rape and sexual violence out into the open, he asked what policies the authorities had adopted in order to ensure greater exposure.

56. The CHAIRPERSON asked whether abortion was illegal in Azerbaijan.

57. Mr. KHALAFOV (Azerbaijan), in reply to Mr. Khalil, said that the law permitted newspapers and periodicals to own printing presses. Secondly there were 400 religious organizations in Azerbaijan, rather than religious groups.

58. Mr. HUSEYNOV (Azerbaijan), in reply to Mr. Shearer, said that no statistics were kept on membership of individual religions. However, it might be possible to build up a picture on the basis of the national minorities identified in the 1999 census. Article 18 of the Constitution provided that the State must not interfere in religious affairs, and vice versa; it was illegal to distribute religious propaganda of the kind mentioned in the delegation's reply to questions 17 and 18.

59. Mr. KHALAFOV (Azerbaijan) said that the existing arrangements covering conscientious objectors were unsatisfactory, and that his Government was currently taking advice from the Council of Europe with a view to introducing appropriate legislation.

60. Mr. MAMMADOV (Azerbaijan), replying to Mr. Shearer, said that, unlike Soviet law, the law of Azerbaijan did not proscribe homosexual activities.

61. Mr. KHALAFOV (Azerbaijan), in reply to Mr. Henkin, said that women had full access to information on family planning. All such issues were the responsibility of the State Committee for Women's Affairs, which was headed by a woman. All the Committee's policies were developed in collaboration with leading international organizations in the field, and women were heavily involved at every stage of the process.

62. Mr. MAMMADOV (Azerbaijan), in reply to Sir Nigel Rodley, confirmed that the three journalists had been detained for six months on charges of libel and insulting behaviour. They had enjoyed full access to legal representation throughout their detention.

63. Mr. KHALAFOV (Azerbaijan) said he had no specific information about the Adalyat party but the Committee's question would be answered in writing in due course.

64. Mr. MAMMADOV (Azerbaijan) said that the Ministry of Justice was responsible for the registration of political parties. The reasons for denial of registration were published in all cases. In some cases, parties had remedied legal flaws in their applications and had successfully registered at their second attempt. The law was silent on a party's status during the period between its application for recognition and the Ministry's decision. A question would be addressed to parliament in that connection. At all events, political pluralism had flourished in Azerbaijan since the transition to democracy and it was the Government's policy to encourage the formation of political parties.

65. Mr. HUSEYNOV (Azerbaijan) said that the three persons arrested in Sumgait had been resisting the police and their apprehension had been fully consistent with the principles of democracy. Until it was registered, the Adalyat party could not enjoy the privileges of a fully-fledged political party or be treated as such by the authorities. He assured the Committee, however, that existing shortcomings in the legislation governing such circumstances would gradually be remedied.

66. Mr. MAMMADOV (Azerbaijan) said that the law prohibited foreigners from disseminating religious propaganda.

67. Mr. KHALAFOV (Azerbaijan) said that the decision to expel eight foreigners for disseminating religious propaganda had been taken on the basis of proper legal proceedings. He would have to check the report that two others had been detained for 15 days.

68. Violence against women and children was a problem in all societies and Azerbaijan was probably no exception. The legislative basis for prosecution existed but such cases were not brought before the courts, perhaps because people were reluctant to file complaints or report incidents to the police. If violence was occurring on a massive scale, however, society would

know of its existence because of the number of women's NGOs active in the country. Family and children's issues were discussed on both private and State television programmes. Perhaps a wider public awareness campaign was needed to put an end to such abuses as occurred.

69. In most cases where denial of an application to register as a political candidate was contested in court, the decision was endorsed as being in line with the existing regulations and procedures.

70. It was not an offence to criticize the Head of State or other leaders. The opposition and the media were often openly critical of public figures. However, legal proceedings could be brought where the criticism amounted to an insult or defamation.

71. Azerbaijan had a very serious refugee problem and the need to provide housing and to attend to refugees' other material needs was a major drain on its resources. The country was receiving valuable assistance in that connection from the International Organization for Migration (IOM). There had been no case of refoulement of refugees from Azerbaijan.

72. States of emergency had been declared both throughout the country and in specific regions.

73. Azerbaijan had a free market economy and unlimited supplies of contraceptives were available in pharmacies.

74. Mr. MAMMADOV (Azerbaijan) said that abortion was not an offence if carried out in a medical establishment by a qualified doctor. Unqualified persons who conducted abortions were prosecuted under the Criminal Code, especially if the woman's health was adversely affected.

75. Mr. HUSEYNOV (Azerbaijan) said that article 57 of the Constitution protected persons who criticized the Head of State or other officials from prosecution. As the Constitution recognized freedom of religion, conversion from one religion to another was not an offence. The principle of non-refoulement was laid down in the Refugees and Displaced Persons Act.

76. The State recognized its obligation to provide women with the legal means of self-defence against domestic violence and women's organizations also provided assistance to victims. Azerbaijan was a party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which had established a complaints mechanism.

77. The Constitution provided for the declaration of states of emergency in specific localities. New legislation on states of emergency was currently being drafted. With regard to unregistered NGOs or political parties, the Constitution guaranteed freedom of association for individuals or groups provided that their activities were conducted within the framework of the law.

78. Mr. MAMMADOV (Azerbaijan), commenting on the issue of domestic violence, said that account should be taken of the prevailing mentality and the place of the family in Azerbaijani culture. Women and children occupied a central position in the family and he was somewhat sceptical of reports of widespread violence. Any manifestation of disrespect towards

women or children quickly became an issue of social concern. Violence within the family was considered shameful and even if the family itself remained silent, others would report any abuses that occurred.

79. Mr. ANDO said he was unsure what was meant by religious propaganda. Did it involve preaching, teaching or other activities?

80. Mr. SCHEININ said that, although the delegation seemed to deny the existence of a problem of trafficking in women, NGOs claimed that Azerbaijan was both a country of origin and a transit country. Azerbaijani women were allegedly victims of trafficking in Europe, especially Germany, and in the United Arab Emirates, and women from the Islamic Republic of Iran, Iraq and the Russian Federation were transported through Baku to the United Arab Emirates, Europe and occasionally the United States. A large proportion of the group of almost 700 prostitutes arrested in Dubai in 1998 and deported were apparently from Azerbaijan.

81. Sir Nigel RODLEY reiterated his request for information about compensation for victims of violations for which public officials had been dismissed or prosecuted. If the details were not immediately available, he urged the delegation to forward them to the Committee in due course.

82. He asked whether there had been any prosecutions under the new provisions of the Criminal Code concerning torture, which had come into force just over a year previously.

83. Mr. AMOR asked what was meant by the reference in paragraph 458 of the report to religions that degraded the individual. He would welcome practical examples of the type of behaviour the judicial authorities had in mind. Freedom of worship could be restricted for reasons of State security. He asked the delegation to comment on allegations that the list of circumstances raising "State security" issues was very long indeed.

84. Ms. CHANET welcomed the fact that that the new Criminal Code imposed heavy penalties for rape but noted some scepticism regarding the existence of violence against women despite reliable evidence to the contrary. It was unhelpful to claim that domestic violence quickly became public knowledge. It was preferable to investigate and adopt appropriate legislation to combat the problem.

85. Mr. KHALAFOV (Azerbaijan) said he would not rule out the possibility that Azerbaijan might be used as a transit territory for trafficking in women but it could hardly be described as a hub of the trade. The problem existed even in Europe and was particularly acute where social and economic problems were rife. Both the traffickers and the women themselves were motivated by the prospective material benefits. A great deal had been done, in terms of legislation and social and economic measures, to promote equal rights for men and women. But he was unsure whether steps to prohibit trafficking would work. In terms of its customs and attitudes, Azerbaijan had not yet reached the stage where such matters could be regulated by law. The only effective preventive action would consist in creating sufficient employment opportunities at home to obviate the need to resort to prostitution and trafficking. Action was certainly being taken, on the other hand, to prevent violence against women and to afford protection to victims.

86. Mr. MAMMADOV (Azerbaijan) said that a great deal of attention had been given, in the context of judicial reform, to the question of compensation for victims. Legislation on compensation for victims of unlawful prosecution already existed and the new Code of Criminal Procedure contained a section that regulated compensation for material and non-material damage suffered as a result of unlawful acts by officials in the conduct of preliminary inquiries, pre-trial investigations and prosecutorial proceedings in general. Persons subjected to torture were also entitled to compensation. According to the Procurator's Office, 114 complaints had been received in the first seven months of 2001 concerning the use of violence and improper methods of investigation. Criminal proceedings had been brought against the alleged perpetrators and some had been held criminally responsible. In one case, a police officer had been charged with occasioning grievous bodily harm to a suspect and had been sentenced to a prison term of several years. He could provide the Committee with a list of cases and the names of the individuals involved.

87. According to the Code of Criminal Procedure, evidence obtained by unlawful means, especially through the use of torture, was inadmissible in a court of law.

88. Mr. HUSEYNOV (Azerbaijan) said that the article of the Constitution that prohibited the dissemination of propaganda for religions that degraded the individual and contravened humanitarian principles was compatible with article 18 (3) of the Covenant.

89. The existence of prostitution in a country did not provide a ground for concluding that article 8 of the Covenant had been violated. It was quite possible that the prostitutes mentioned by Mr. Scheinin had voluntarily entered the territory of the State for that purpose. He agreed, however, that trafficking in women and children should be characterized as a criminal act in Azerbaijani legislation.

90. The CHAIRPERSON thanked the Azerbaijani delegation for a detailed and comprehensive report. The delegation's account of developments since the submission of the report indicated that the country was making a determined effort to cast off the legacy of the past and take its place among democratic nations. The Committee regretted, however, that the report contained little factual material on how the new legislation was implemented in practice, a shortcoming that would, he hoped, be rectified in the next report.

91. Despite the armed conflict in which Azerbaijan was engaged, it had set up new institutions and enacted new laws. It was regrettable, however, that no provision had been made for individual applications to the Constitutional Court challenging the legality of domestic law or the lawfulness of government action. The Committee welcomed the abolition of the death penalty and the ratification by Azerbaijan of both the First and Second Optional Protocols to the Covenant. It also noted with satisfaction that a bill to introduce the office of ombudsman was in the final stage of enactment.

92. It was a matter of concern that Azerbaijan had no independent authority for investigating complaints about police officers and prison officials. The paucity of complaints, despite NGO allegations that torture by law enforcement officers was not uncommon, was probably due to a lack of confidence in the independence of the complaints department within the police force.

93. There was some doubt as to compatibility of the constitutional provision regarding states of emergency with article 4 of the Covenant in terms of possible derogations from Covenant rights. He was therefore pleased to hear that the legislation on states of emergency that was currently being enacted was in line with the requirements of the European Convention on Human Rights.

94. Lastly, the provision of article 111 of the Constitution which made the enjoyment of human rights by aliens dependent on reciprocity by the alien's country of origin was inconsistent with a number of Covenant articles.

95. Mr. KHALAFOV (Azerbaijan) said that his country would adopt a new approach to existing problems in both legal and practical terms in the light of the delegation's dialogue with the Committee. A major effort had been undertaken after the Committee's review of Azerbaijan's initial report to act on the recommendations contained in its concluding observations. No less an effort would be made to fulfil the Committee's recommendations on the second periodic report.

The meeting rose at 6.10 p.m.